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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 18.2.2005

CORAM:

THE HONOURABLE MR.MARKANDEY KATJU, THE CHIEF JUSTICE

AND

THE HONOURABLE MR. JUSTICE D.MURUGESAN

W.A. Nos. 84 to 87 of 2000

1. The Tamil Nadu Civil Supplies
   Corporation Limited rep. by
   Sub-Regional Manager,
   Mayiladuthurai.

2. The Tamil Nadu Civil Supplies
   Corporation Limited rep. by
   its Chairman-cum-Managing Director,
   42, Thambuswamy Road, Kilpauk,
   Madras-10. Appellants in all Writ Appeals

Vs.

S.Sampath Respondent in all Writ Appeals

Prayer: Appeals under clause 15 of the Letters Patent against the order of this Court in W.P. Nos.12836/91, 12837/91, 12838/91 and 12839/91 dated 6.1.1999.

For appellant :: Mrs.Latha
for M/S M.Sureshkumar in all W.As
For respondents :: Mr.S.Venkatraman,-do-

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COMMON JUDGMENT

(Judgment of the Court was delivered by
The Hon'ble Chief Justice.)

These writ appeals have been filed against the impugned judgment of the learned single Judge dated 6.1.1999. We have carefully perused the impugned order and heard learned counsel for the parties.

2. The facts in detail have been given in the impugned judgment of the learned single Judge and hence we are not repeating the same except where necessary.

3. There was an allegation against the petitioner that while in service of the appellant Corporation, he was involved in causing shortage of paddy for the amounts mentioned in the show cause notices. Show cause notices were given to him dated 17.3.1987 and 2.6.1988 to show cause why the value of the shortages in excess over the allowable norms should not be recovered from him. In reply to the show cause notices, the respondent in these appeals furnished his explanation. The explanation states:-

> "I have been asked to show cause as to why a sum of Rs.11,384.39 should not be recovered from me towards the cost of transit shortage noticed while the movement made to Salem Region during Kuruvai-83.
>
> In this connection I submit that the paddy in question was moved only after the weighment was done at Modern Rice Mill, Sithakkadu and no second weighment was made either in my presence or at Railhead and whatever the quantity despatched by the direct purchase centres, Modern Rice Mill, Sithakkadu was loaded into wagons without second weighment made.
>
> Most of the gunnies have been packed with serviceable patches gunnies. But if the spillage bags have been noticed at the other end at the time

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of clearance of the wagons, they might have been acknowledged. The acknowledgement details have not been appended with the show cause notice. In the absence of details, the paddy despatched should have been received. It clearly shows that the shortage noticed only due to mode of weighment made at different places and the reduction of moisture content otherwise there may not be possible for shortage.

I also submit that no unit shortage was noticed. Hence I am not responsible for the shortage noticed in any way."

4. Thereafter four orders dated 30.3.1990, 15.5.1990, 2.4.1990 and 5.11.1990 were passed. The order dated 30.3.1990 reads as follows:-

A quantity of 682.229 M.Ts. of paddy was moved from Railhead, Mayiladuthurai to Salem Region during December, '83. The details of quantity moved and acknowledgment weight are furnished below:

Total quantity moved	:	682.229
Total quantity acknowledged	:	666.330
Total shortage	:	15.899
Regularised within the norms	:	6.817
Exceeding the norms above 1%	:	9.802

Even after the regularisation of the shortages a quantity of 9.802 M.Ts., has been noted as shortages exceeding the norms. The value of shortages 9.802 M.Ts., of paddy works out to Rs.15166.94. The Head Office has instructed to recover the above amount equally from the person who attended the movement works in both ends. Thiru S.Sampath formerly A.Q.I MRM/Sitharkadu is responsible for the shortages. His explanation is not acceptable one. Hence, a sum of Rs.7583.47 (Rupees seven thousand five hundred and eighty three and paise forty seven only) is ordered to be recovered from Thiru S.Sampath, A.Q.I, the Deputy Manager (A/cs.), Mayiladuthurai to recover the amount from Thiru S.Sampath, A.Q.I from the pay of the individuals in 30 equal instalments." (sic.)

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5. A perusal of the order dated 30.3.1990 shows that no reasons have been given therein, but only conclusions. There is a difference between reasons and conclusions, vide *Union of India v. M.L.Capoor (AIR 1974 SC 87)*. In paragraph 28 of the aforesaid decision, the Supreme Court observed: -

> *" Reasons are the links between the materials on which certain conclusions are based and the actual conclusions. They disclose how the mind is applied to the subject matter for a decision whether it is purely administrative or quasi judicial. They should reveal a rational nexus between the facts considered and the conclusions reached. Only in this way can opinions or decisions recorded be shown to be manifestly just and reasonable."*

6. Thus what has been recorded in the impugned order, as can be seen from its perusal, is only conclusions and not reasons.

7. It has been held by the seven Judges Bench of the Supreme Court in *S.N.Mukherjee v. Union of India* (AIR 1990 SC 1984) that even administrative orders which have civil consequences must give reasons. In paragraph 35 of the aforesaid decision the Supreme Court observed that recording of reasons by an administrative authority serves a salutary purpose, namely, it excludes chances of arbitrariness and ensures a degree of fairness in the process of decision making. It is not necessary that the reasons should be as elaborate as in the decision of a court of law. The extent and nature of the reasons would depend on particular facts and circumstances. However, what is necessary is that the reason should be clear and explicit so as to indicate that the authority has given due consideration to the points in controversy.

8. In the present case the respondent (writ petitioner) had furnished explanations to the show cause notices. It was, therefore, incumbent on the Corporation to

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have considered that explanation and given its reasons why it is not accepting the same. That however has not been done in the impugned orders of the Corporation. Hence the said orders cannot be sustained in law.

9. For the reasons given above, these writ appeals are dismissed but with liberty to the appellant Corporation to pass a fresh order after considering the explanation furnished by the writ petitioner and reply to the show cause notices. Since we are dismissing the writ appeals on the technical ground that the rules of natural justice were not complied with, we leave it open to the Corporation to pass a fresh order in accordance with law after complying with the procedure prescribed in Chapter V of the Tamil Nadu Civil Supplies Corporation Limited Employees Service Regulations, 1989. If the Corporation decides to pass a fresh order, it should do so in accordance with the above regulations preferably within three months as the matter has already been greatly delayed. The fresh order by the Corporation must contain reasons. No costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

ns.

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To

1. The Sub Regional Manager,
   Tamil Nadu Civil Supplies
   Corporation Limited
   Mayiladuthurai.

2. The Chairman Cum Managing Director,
   Tamil Nadu Civil Supplies
   Corporation Limited
   42, Thambuswamy Road, Kilpauk,
   Madras-10.

+1cc to Mr. M.Sureshkumar, Advocate SR.No.7517

AKM(CO)
kaa 24.02.05

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